

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JAY ADAMS, ID # 1342174,)
Petitioner,)
vs.) No. 3:09-CV-2330-O (BH)
RICK THALER, Director,) ECF
Texas Department of Criminal) Referred to U.S. Magistrate Judge
Justice, Correctional Institutions Division,)
Respondent.)

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b) and *Special Order 3-251*, this case has been referred to the United States Magistrate Judge for findings, conclusions, and recommendation.

I. BACKGROUND

Petitioner, an inmate currently incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division (“TDCJ-CID”), filed a petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 on or about December 7, 2009. On December 8, 2009, the Court issued a Notice of Deficiency and Order (“NOD”) notifying him that he had not submitted enough information in support of his request to proceed *in forma pauperis* (“IFP”). He was ordered to submit a certificate of inmate trust account (“CTA”) within thirty days. More than thirty days from the date of that order have passed, but petitioner has not submitted a CTA or filed anything further in this case.

II. INVOLUNTARY DISMISSAL

Rule 41(b) of the Federal Rules of Civil Procedure permits a court to dismiss *sua sponte* an action for failure to prosecute or follow orders of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). This authority flows from a court’s inherent power to control its docket, pre-

vent undue delays in the disposition of pending cases, and avoid congested court calendars. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-31 (1962). Petitioner has failed to comply with the order that he submit a CTA within thirty days. This shows that he does not intend to proceed with this case, and it should be dismissed without prejudice for petitioner's failure to prosecute.

III. RECOMMENDATION

The Court should dismiss this action without prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b).

SIGNED this 20th day of January, 2010.



IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

A copy of these findings, conclusions and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).



IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE